

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE DEPARTMENT OF NATURAL RESOURCES

In the Matter of the Appeal of the
Off-Highway Vehicle Trespass Citation
Issued to Chase Elliot Suchomel

**NOTICE OF PREHEARING
CONFERENCE AND NOTICE OF
HEARING**

PLEASE BE ADVISED that a prehearing conference will be held by telephone conference call on **Tuesday, July 26, 2005**, beginning at **2:30 p.m.** and continuing as long as necessary.

Participating in the prehearing conference telephone call will be Barbara L. Neilson, the undersigned Administrative Law Judge, whose office is located at 100 Washington Square, Suite 1700, Minneapolis Minnesota 55401-2138, and whose telephone number is 612-341-7604; the Conservation Officer who issued the citation, Rita Frenzel, whose telephone number is 218-372-8158, and the appellant herein, Chase Elliot Suchomel, whose telephone number is not known at the present time. Mr. Suchomel is directed to call Nancy Hansen, secretary to Judge Neilson, at 612-341-7652, as soon as possible to provide her with a telephone number where he may be reached for the conference call. The Judge will place the conference call, using the telephone number listed above for Ms. Frenzel and the number provided by Mr. Suchomel. If it is necessary to change the time or date of the conference call or reach either of you at a different telephone number,, please inform Ms. Hansen immediately.

The purpose of the prehearing conference telephone call is to determine the nature of the dispute that caused the appeal, and to determine the best way to resolve it. The telephone call is expected to last about 15 to 30 minutes. If the appeal cannot be resolved during the telephone call itself, then the Judge will set a time for a hearing. The Judge will also decide whether the hearing shall be held by telephone or in person.

The citation which is being appealed was issued pursuant to Minnesota Statute Sections 84.90 and 97B.002. Subdivision 3 of section 97B.002 provides that, if a person requests a hearing in order to appeal a citation, the hearing shall be held pursuant to procedures set forth in Minnesota Statutes section 116.072, subd. 6. That statute provides an expedited administrative hearing process, and refers to Minnesota Rules, parts 1400.8510 to 1400.8612. These are the rules which will govern the conduct of this appeal. Copies of these statutes and rules may be obtained from the Documents Section of the Department of Administration, 117 University Avenue, St. Paul, Minnesota 55155. Statutes and rules may also be found at county law libraries and many other public libraries in the State. The statutes may also be found using the Internet at www.revisor.leg.state.mn.us/stats/. The rules may be found at www.revisor.leg.state.mn.us/arule/ or at www.oah.state.mn.us .

It is not necessary that a person have an attorney in order to participate in this case. They may, however, choose to be represented by legal counsel or any other representative of their choice. If you choose to be represented by an attorney, please have your attorney file a Notice of Appearance with the Judge and notify Ms. Hansen of the attorney's telephone number to ensure that the attorney may also participate in the conference call.

The decision in this case will be based only on factual information or evidence that is part of the hearing record. Persons participating in the hearing should have available at the time of the hearing all documents, records, witnesses and any other evidence they need to present their position. Subpoenas may be available to compel the attendance of witnesses or other production of documents. See Minnesota Rules part 1400.8601 for the procedures regarding subpoenas. Any person other than Officer Frenzel and Mr. Suchomel who desires to become a party to this case must submit a timely petition to intervene pursuant to Minn. Rules part 1400.8570.

After the hearing is over, the Administrative Law Judge will issue a recommended decision. A copy will be sent to each party and to the Commissioner. After allowing at least five days to pass, the Commissioner will issue a final order. During the five-day period, the parties may file comments with the Commissioner regarding the recommended decision.

Failure to participate in the prehearing conference telephone call or failure to appear at the hearing will result in the citation being upheld and the fine having to be paid within thirty (30) days of the issuance of the Commissioner's final decision, with no further opportunities for administrative appeal.

Appeal hearings should be limited to cases where there is a legitimate, good faith disagreement about the facts or the law. Minnesota Statutes Section 116.072, subd. 6(d), provides that, if the Administrative Law Judge finds that a hearing was requested solely for purposes of delay or that the hearing request was frivolous, the costs of holding the hearing may be added to the amount of the fine.

Questions concerning settlement of this matter may be directed to the issuing officer or Pat Watts, Policy/Legal Analyst, Minnesota Department of Natural Resources, 500 Lafayette Road, St. Paul, Minnesota 55155-4047, telephone (651) 296-4883.

If any party has good cause for requesting a delay of the prehearing conference or the hearing, the request must be made in writing to the Administrative Law Judge at least five (5) days prior to the prehearing conference or hearing. A copy of the request must be served on the other party.

If you need an accommodation in order to participate in this hearing process, please call: (612) 341-7610 (voice) or (612) 341-7346 (TTD).

Dated: July 6, 2005

/s/Barbara L. Neilson

BARBARA L. NEILSON
Administrative Law Judge

